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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/532,680	04/26/2005	Toshio Nakai	2005_0599A	8723

513 7590 09/28/2007
WENDEROTH, LIND & PONACK, L.L.P.
2033 K STREET N. W.
SUITE 800
WASHINGTON, DC 20006-1021

EXAMINER

LEFF, STEVEN N

ART UNIT	PAPER NUMBER
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1761

MAIL DATE	DELIVERY MODE
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09/28/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.		Applicant(s)	
	10/532,680		NAKAI, TOSHIO	
	Examiner		Art Unit	
	Steven Leff		1761	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 November 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 April 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>11/22/06</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

- Claims 1-8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
 - The claims are generally narrative and indefinite, failing to conform with current U.S. practice. They appear to be a literal translation into English from a foreign document and are replete with grammatical and idiomatic errors.
 - The phrase “not less than the temperature at which protein is denatured” in claims 1, and 5 is rejected, as it is indefinite due to the fact that a certain temperature may not denature protein when applied for one amount of time but does cause denaturing of the protein when applied for a second, different, increased amount of time.
 - The phrase “less than a cooking temperature” in claims 1, and 5 is rejected, as it is indefinite due to the fact that a certain temperature may not cook the animal protein when applied for one amount of time but does cook the animal protein when applied for a second, different, increased amount of time.
 - Claim 4 is rejected as it is unclear if the phrase “without going through a pre-cooling step” is with respect to prior to the pre-heating step, or with respect to after pre-heating and prior to refrigeration.
 - With respect to claims 3 and 6, the phrase “not less than 30C and less than 135C” is rejected as it is unclear if the phrase represents a range or two different heating temperatures ranges which are acceptable, where one acceptable range is not less than 30C and the other range is less than 135C

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

- Claims 1-8 are rejected under 35 U.S.C. 102(b) as being anticipated by Williams (28700818).

With respect to claims 1-8, Williams teaches a method of cooking food by preheating where the foodstuff for cooking by heating is animal protein (col. 4 line 55+). More specifically, Williams teaches an animal protein product, and method of cooking food which is to be refrigerated or chilled, and is preheated to a temperature not less than the temperature at which protein is denatured and less than a cooking temperature (col. 4 line 7+) before said foodstuff is refrigerated or chilled (col. 4 line 66+), where the means for the preheating is electric heating in which the foodstuff is heated by passing an electric current to heat it with Joule heat (col. 3 line 12+).

Williams continues by teaching that the temperature of the preheating is not less than 30 °C and less than 135 °C (col. 4 line 62) where it is noted that 105F is 40.5C. Williams further teaches that the foodstuff is refrigerated after the preheating step without going through a pre-cooling step (col. 4 line 56+).

- Claims 1-3, and 5-6, are rejected under 35 U.S.C. 102(b) as being anticipated by Miyahara (4612199).

With respect to claims 1-3, and 5-6, Miyahara teaches a method of cooking food by preheating where the foodstuff for cooking by heating is animal protein (col. 3 line 41+). More specifically, Miyahara teaches an animal protein product, and method of cooking food which is to be refrigerated or chilled, and is preheated to a temperature not less than the temperature at which protein is denatured and less than a cooking temperature (col. 5 line 2+) before said foodstuff is refrigerated or chilled, where the means for the preheating is electric heating in which the foodstuff is heated by passing an electric current to heat it with Joule heat (col. 4 line 29+).

Miyahara continues by teaching that the temperature of the preheating is not less than 30 °C and less than 135 °C (col. 4 line 11).

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Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven Leff whose telephone number is (571) 272-6527. The examiner can normally be reached on Mon-Fri 8:30 - 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Keith Hendricks can be reached on (571) 272-1401. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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9/26/07

Drew Becker
DREW BECKER
PRIMARY EXAMINER
9-26-07